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Supreme Court of the United States

OCTOBER TERM, 1931.

No. 568

UNITED STATES OF AMERICA
v.
SWIFT & COMPANY ET AL.

No. 569

AMERICAN WHOLESALE GROCERS ASSOCIATION
v.
SWIFT & COMPANY ET AL.

No. 570

NATIONAL WHOLESALE GROCERS ASSOCIATION
v.
SWIFT & COMPANY ET AL.

MOTION OF COUNSEL FOR THE TEXAS & SOUTHWESTERN CATTLE RAISERS' ASSOCIATION AND THE KANSAS LIVESTOCK ASSOCIATION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE, AND BRIEF OF AMICUS CURIAE.

DAYTON MOSES,
Counsel for such Associations, as Amicus Curiae.

Aviation Building,
Ft. Worth, Texas.

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MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE.

May it please the Court:

The undersigned, as Counsel for the Texas & Southwestern Cattle Raisers' Association and The Kansas Livestock Association respectfully moves this Honorable Court for leave to file the accompanying brief in this case as *Amicus Curiae*.

DAYTON MOSES,
Counsel for such Associations,
as Amicus Curiae.

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BRIEF OF COUNSEL FOR THE TEXAS & SOUTHWESTERN CATTLE RAISERS' ASSOCIATION AND THE KANSAS LIVESTOCK ASSOCIATION, AS AMICUS CURIAE.

I.

PRELIMINARY STATEMENT.

The Texas & Southwestern Cattle Raisers' Association is an organization, established in 1877, for the purpose of fostering and protecting the interests

of cattle raisers in the State of Texas and adjoining States; such organization is composed of about 3,500 farmers and ranchers owning approximately two million head of cattle, the majority of the membership consisting of cattle raisers residing in the states of Texas, Oklahoma, Kansas, Colorado, New Mexico, Arizona, Arkansas and Louisiana.

The Kansas Livestock Association is an organization established for the purpose of fostering and protecting the interests of the livestock producers in the State of Kansas; such organization is composed of about 11,500 members who own approximately 80 per cent of the beef cattle, and 65 per cent of the sheep and hogs marketed from the State of Kansas.

Through actual experience gained in the marketing of their own animals, the members of these two organizations are familiar with conditions now prevailing in the livestock markets of the country and with the changes which have occurred in such conditions since 1920. The members of these organizations realize the importance of efficient and economical distribution of the products of their livestock, and are deeply concerned over the necessity for improving such distribution by every possible means. They believe that one of the most harmful barriers to the economical distribution of meats and other food products is the Decree entered in this cause, whereby the larger companies engaged in the meat packing industry are prohibited from dealing in, and from using their distributive facilities and equipment in the handling of food products other than meats. The packing companies, defendants herein, require and use widespread distributive

facilities, equipment and organizations in marketing products of the livestock industry. Due to the provisions of the Decree in this cause, the heavy burden of such distributive costs is borne *solely* by livestock products. These distributive costs should be, and would be, lessened if the defendant packing companies were allowed to utilize completely and more efficiently their distributive facilities, equipment and organization, now necessarily required in the handling of meats and meat food products, in the handling and distribution of other food products.

Accordingly, these Associations of livestock producers sought to intervene in the Court below. Their petition for leave to intervene was denied, but the Court granted leave to file brief as *amicus curiae*.

While recognizing that the public interest, as a whole, is paramount and decisive of the issue here involved, we urge that in the determination of such issue the interests of the livestock industry are directly affected, and entitled to at least as serious consideration as may be accorded those of any other section of the public.

Briefly stated, the question is whether there now exists a monopoly in the meat packing industry and a dangerous probability of a food monopoly by the defendant packing companies, if the Decree herein be modified so they may handle other food products in addition to meats and meat food products. Believing that such are not the facts, but on the contrary, that the complete utilization of the distributive facilities of the defendant companies in the handling of food products will result in substantial economies of benefit both to the growers of livestock